

REMARKS

Reconsideration of this application as amended is requested. By this amendment Applicant has amended claims 1-3, 8 and 10-13; and has deleted claims 6 and 7, the limitations of which essentially have been incorporated into claim 1. Claims 1-5, 8 and 10-13 remain in the case.

The Examiner for the first time rejects claims 1-8 and 10-13 under 35 U.S.C. 101 as being directed to non-statutory subject matter. The Examiner asserts that claim 1 falls under the non-statutory *nonfunctional descriptive material* such as music, literary works and mere arrangement of data and, therefore, lack structure or article – apparently referring to the description of the status ribbon added by Applicant in the latest amendment. Applicant has reviewed the M.P.E.P. and fails to find any reference to a rejection based on “nonfunctional descriptive material.” Applicant submits that the status ribbon is functional in that it provides a user with information about “multiple channels/codes within a frequency range of interest” in a graphical format, and is not comparable to music, literary works or mere arrangements of data. The U.S. Supreme Court determined “that Congress intended statutory subject matter to ‘include anything under the sun that is made by man.’” *Diamond, Contr. Pats. v. Chakrabarty*, 206 USPQ 193, 197 (1980). Therefore Applicant submits that claim 1 is directed to a functional display and recites statutory subject matter.

The Examiner rejects claims 1-8 and 10-13 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Applicant submits that the written description requirement includes all elements of the application as originally filed, including the drawing figures and claims as well as the

specification description. It is clear from Fig. 1 and page 3, line 10 that the status ribbon 10 is a band of adjacent (vertical) stripes. From the dictionary a “band” is a “strip”, i.e., “an elongated surface or section with parallel or roughly parallel sides.” *Webster's Ninth New Collegiate Dictionary*, Merriam-Webster, Inc. (1986). Applicant has amended claim 1 to parallel the language in the specification, describing the “status ribbon having a band.” Therefore there is no new matter, and this language clearly differentiates from bar graphs such as those depicted by Yokoyama. The Examiner tries to equate the shading of the bars in Fig. 3 to the adjacent stripes as recited by Applicant. However there is nothing in the specification of Yokoyama to support such an interpretation by the Examiner, i.e., there is nothing in Yokoyama that indicates that the “shading” of the bars provides any value information about signal characteristics. The only trait of the bars of Yokoyama that provide any information is the amplitude or length of each bar. Therefore Applicant submits that as amended claim 1 clearly complies with the written description and does not introduce new matter.

The Examiner reiterates the rejection of claims 1-3, 6, 7, 10 and 11 under 35 U.S.C. 102(b) as being anticipated by Yokoyama and of claims 4, 5 under 35 U.S.C. 103(a) as being unpatentable over Yokoyama. Yokoyama discloses a television signal level meter that has a screen 90 divided into a scale display region 91, and a region 92 within the scale display region for displaying level images, such as bars 97, associated with respective TV channels. There is no indication that the bars have any other traits than the amplitude or length of the bars to provide the desired information or characteristics of the TV channels. Applicant submits that “a band of adjacent stripes of equal length” as recited in claim 1 is not equivalent to the bar graph of Yokoyama where the bars are not of equal length. The common ordinary

meaning of ribbon as indicated above is an elongated strip. The adjective descriptor merely indicates the use of the ribbon – hair ribbon, gift wrapping ribbon, etc. To say that under any ordinary English language usage that a “ribbon” is equivalent under any interpretation to the bar graph of Yokoyama is ludicrous. Claim 1 also now recites that the trait is selected from the group consisting of hue, saturation and brightness which covers both color and grey scale implementations. Color may be divided into hue, saturation and brightness or luminance, as is well known to one of ordinary skill in the art. With regards to claims 6 and 7 there is no indication in Yokoyama that the colors of the bars change in any manner or are indicative of any characteristic of the TV channels. Therefore Applicant submits that Yokoyama is not anticipatory of claims 6 and 7. In any event Applicant submits that claim 1 as amended and claims depending therefrom are neither anticipated nor rendered obvious to one of ordinary skill in the art by Yokoyama.

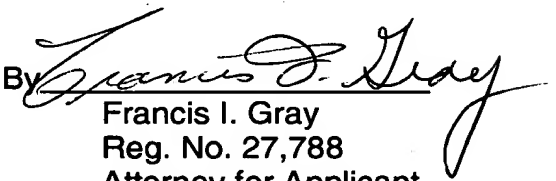
In view of the foregoing amendment and remarks allowance of claims 1-5, 8 and 10-13 is urged, and such action and the issuance of this case are requested.

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